

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TQ DELTA, LLC

v.

COMMSCOPE HOLDING COMPANY,  
INC., et al§  
§  
§  
§  
§  
§

Case No. 2:21-cv-00310-JRG

**MINUTES FOR PRETRIAL CONFERENCE – Day 1  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
March 1, 2023**

**OPEN: 09:09 AM****ADJOURN: 05:32 PM**

ATTORNEYS FOR PLAINTIFF:

See attached

ATTORNEYS FOR DEFENDANTS:

See attached.

LAW CLERKS:

Patrick Clark  
Harris Huguenard  
Dallas Jackson

COURT REPORTER:

Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY:

Andrea Brunson, CP

<b><u>TIME</u></b>	<b><u>MINUTE ENTRY</u></b>
09:09 AM	Court opened.
09:10 AM	Court called for announcements from counsel.
09:11 AM	Court provided instructions and housekeeping matters to the parties. Case is set for jury selection and trial on Friday, March 17, 2023. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. Counsel will be given 30 minutes per side for <i>voir dire</i> . The parties will be given 15 hours per side for the jury trial portion. Opening statements will be 30 minutes per side. Closing arguments will be 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might

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	come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day before the day such deposition is to be used. Deposition clips should be accompanied by closed-captioning. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and Plaintiff rests any rebuttal case. Court will hold an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court reminded counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Counsel instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 PM noon on Monday, March 13, 2023. Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. A reminder that expert witnesses are confined to the four corners of their report.
09:26 AM	Court requested an update from the parties re: medical condition of testifying expert witness.
09:28 AM	Discussion held with Mr. Barton on behalf of Defendants and Mr. Davis on behalf of Plaintiff.
09:36 AM	Court ordered parties to meet and confer. Court directed the parties to take a trial deposition of the expert witness in lieu of live in-person testimony.
09:41 AM	Court proceeded with hearing argument re: the following disputed dispositive motions:
09:41 AM	[SEALED] CommScope Defendants' Motion for Partial Summary Judgment to Limit Damages Based on 35 U.S.C. § 286 (Dkt. No. 340).
09:42 AM	Mr. Barton presented argument for Defendants.
09:59 AM	Responsive argument by Mr. Hurt for Plaintiff.
10:18 AM	Rebuttal argument by Mr. Barton for Defendants.
10:21 AM	Court heard argument re: [SEALED] Plaintiff TQ Delta, LLC's Opposed Motion for Leave to Formally Serve the First Supplemental Expert Report of Jonathan D. Putnam on the CommScope Defendants (Dkt. No. 349).
10:22 AM	Mr. Hurt presented argument for Plaintiff.
10:33 AM	Responsive argument by Mr. Barton for Defendants.
10:42 AM	Rebuttal argument by Mr. Hurt for Plaintiff.
10:46 AM	Court DENIED Dkt. No. 340.
10:46 AM	Court GRANTED Dkt. No. 349.
10:47 AM	Recess.
11:02 AM	Court reconvened.

<u>TIME</u>	<u>MINUTE ENTRY</u>
11:02 AM	Court heard argument re: [SEALED] CommScope's Motion to Exclude Expert Testimony of Jonathan Putnam, Ph.D. That is Inconsistent With Legal Precedent (Dkt. No. 346).
11:03 AM	Mr. Stevens presented argument for Defendants.
11:23 AM	Responsive argument by Mr. Fink for Plaintiff.
11:43 AM	Rebuttal argument by Mr. Stevens for Defendants.
11:47 AM	Court made rulings as set forth in the record re: Dkt. No. 346.
11:52 AM	Court heard argument re: [SEALED] CommScope's Motion to Exclude Portions of the Expert Testimony of Jonathan Putnam and Todor Cooklev Under Fed. R. Evid. 702 and <i>Daubert</i> (Dkt. No. 344).
11:52 AM	Mr. Stevens presented argument for Defendants.
12:02 PM	Responsive argument by Mr. Fink for Plaintiff.
12:04 PM	Court DENIED Dkt. No. 344.
12:05 PM	Recess for lunch.
01:14 PM	Court reconvened.
01:14 PM	Court heard argument re: [SEALED] Plaintiff TQ Delta, LLC's Motion to Strike Portions of the Expert Report of Stephen L. Becker, Ph.D. (Dkt. No. 345).
01:14 PM	Mr. Davis presented argument for Plaintiff.
01:34 PM	Responsive argument by Mr. Lareau for Defendants.
01:56 PM	Rebuttal argument by Mr. Davis for Plaintiff.
02:01 PM	Court made rulings as set forth in the record re: Dkt. No. 345.
02:04 PM	Court heard argument re: [SEALED] CommScope's Motion for Summary Judgment of Non-Infringement of the Family 3 Patents (Dkt. No. 336).
02:05 PM	Mr. Marais presented argument for Defendants.
02:10 PM	Responsive argument by Mr. Hurt for Plaintiff.
02:15 PM	<b>Courtroom sealed.</b>
02:16 PM	Continuation of argument by Mr. Hurt.
02:19 PM	Rebuttal argument by Mr. Marais for Defendants.
02:23 PM	<b>Courtroom unsealed.</b>
02:23 PM	Court DENIED Dkt. No. 336.
02:24 PM	Recess.
02:48 PM	Court reconvened.
02:48 PM	Court heard argument re: [SEALED] Plaintiff TQ Delta, LLC's Motion to Strike the Invalidity Report of Defendants' Expert, Mark Lanning (Dkt. No. 338).
02:48 PM	Mr. McAndrews presented argument for Plaintiff.
03:11 PM	Responsive argument by Mr. Barton for Defendants.
03:17 PM	Rebuttal argument by Mr. McAndrews for Plaintiff.
03:20 PM	Court made rulings as set forth in the record re: Dkt. No. 338.
03:22 PM	Court heard argument re: CommScope's Motion to Exclude Certain Unreliable Opinions of Plaintiff's Expert Dr. Vijay Madiseti (Dkt. No. 342).
03:23 PM	Mr. Bradley presented argument for Defendants.
03:31 PM	Responsive argument by Mr. McAndrews for Plaintiff.
03:40 PM	Rebuttal argument by Mr. Bradley for Defendants.
03:47 PM	Court made rulings as set forth in the record re: Dkt. No. 342.

<b>TIME</b>	<b>MINUTE ENTRY</b>
03:49 PM	Court heard argument re: [SEALED] TQ Delta, LLC's Motion to Strike the Expert Testimony of Dr. George A. Zimmerman, Dr. Richard Wesel, Dr. Bruce McNair and Dr. Niel Ransom (Dkt. No. 337).
03:49 PM	Mr. Hurt presented argument for Plaintiff.
04:07 PM	Responsive argument by Mr. Bradley for Defendants.
04:21 PM	Rebuttal argument by Mr. Hurt for Plaintiff.
04:21 PM	Court made rulings as set forth in the record re: Dkt. No. 337.
04:28 PM	Court held discussion with counsel re: which remaining disputed dispositive motions could be decided upon the papers.
04:31 PM	Court heard argument re: [SEALED] Plaintiff TQ Delta's Motion to Strike Portions of the Non-Infringement Report and Opinions of Defendants' Expert, Dr. Naofal Al-Dhahir (Dkt. No. 341).
04:31 PM	Ms. Ratycz presented argument for Plaintiff.
04:41 PM	Responsive argument by Ms. Rubschlager for Defendants.
04:46 PM	Rebuttal argument by Ms. Ratycz for Plaintiff.
04:47 PM	Court GRANTED Dkt. No. 341.
04:49 PM	Court heard argument re: [SEALED] Plaintiff TQ Delta LLC's Motion to Strike Portions of the Non-Infringement Report and Opinions of Defendants' Expert, Dr. Leonard J. Cimini, Jr. (Dkt. No. 339).
04:50 PM	Mr. McAndrews presented argument for Plaintiff.
05:04 PM	Responsive argument by Mr. Deane for Defendants.
05:12 PM	Rebuttal argument by Mr. McAndrews for Plaintiff.
05:16 PM	Additional responsive argument by Mr. Deane for Defendants.
05:17 PM	Court CARRIED ruling re: Dkt. No. 339.
05:18 PM	Court heard argument re: [SEALED] TQ Delta's Motion for Summary Judgment of No Breach of Any FRAND Obligations (Family 3 and Family 9A Non-Essential Patents) (Dkt. No. 335).
05:18 PM	Mr. Marais presented argument for Defendants.
05:25 PM	Responsive argument by Mr. Wilson for Plaintiff.
05:27 PM	Additional argument by Mr. Marais for Defendants.
05:31 PM	Court GRANTED Dkt. No. 335.
05:31 PM	Court to consider Dkt. No. 343 and Dkt. No. 347 on the papers.
05:31 PM	Conclusion of argument re: disputed dispositive motions.
05:32 PM	Pretrial Conference Day 2 scheduled for tomorrow to cover disputed MILs and pre-admission of exhibits.
05:32 PM	Court directed parties to meet and confer to narrow surviving disputes re: MILs and exhibits.
05:32 PM	Court adjourned until tomorrow morning.